

REMARKS

Amendment

Claims 1-36 are pending. Claims 1-2, 4-5, 7-8, 10-11, and 13-28 are canceled without prejudice. Claims 3, 6, 9, 12, 29-36 are amended. Claims 37-61 are newly added. Support for these claim amendments is found throughout the specification and originally filed claims.

Restriction

In response to the Restriction Requirement dated September 29, 2005, Applicants elect **Group II, drawn to methods of diagnosing osteoarthritis** for prosecution on the merits, with traverse.

Applicant's traversal of the restriction requirement is on the grounds that examining the claims of Group I and Group III along with the claims of Group II, would not constitute an undue search burden on the Examiner. Applicant respectfully contends that a search of the product claims comprising Group I would necessarily be encompassed by a search of the method claims of Group II which incorporate said product, and that the claims of Groups II and III are sufficiently related such that their searches would be significantly overlapping.

If Group II is elected, Applicant is further required to elect a combination of genes. **Accordingly, Applicant further elects the genes TNFAIP6 and TGFB1 for examination of the claims of Group II**, with traverse. TNFAIP6 is found in Figure 7A, line 921, and Figure 6C, line 135, while TGFB1 is found in Figure 6B, line 18, and Figure 7A, line 1120. These two genes can be used to differentiate OA in all four stages in both cartilage and blood.

Applicant also respectfully traverse the requirement that Group II be further restricted to a combination of genes, and respectfully submits that this restriction requirement should be a requirement for election of species.

As restricted, Group II consists of Claims 13-28 and 34-36. However, Applicant has cancelled claims 13-28 of Group II replacing them with claims 37-52, which are also drawn to the elected invention. Therefore, Group II now consists of claims 34-36 and new claims 37-52.

Newly added claims 53-62 are drawn to a method of monitoring the efficacy of a drug for the treatment of OA, and closely correspond to claims 29-32 of Group III. Newly added product claims 57-61 are drawn to the elected combination of biomarkers TNFAIPG and TGFB1, and fall into Group I.

Applicant also respectfully requests that should the claims of elected Group II be found allowable, that the Examiner rejoin the non-elected claims of Groups I and III, at least to the extent they reflect the elected combination of genes TNFAIP6 and TGFB1.

An petition for an extension of time is attached. Should any additional fees be required to ensure consideration of this response, the Commissioner is authorized to charge Deposit Account 16-0085, Reference No. 204231/2042.

Applicant submits that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicant's attorney/agent would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney/agent of record.

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Respectfully submitted,

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